

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

OPINION AND ORDER

09-cr-108-bbc

v.

WAYNER D. BLACK,

Defendant.

Before the court is a motion from the government under 18 U.S.C. §§ 3613(a) and 3664(k) asking the court to enter an order authorizing the Bureau of Prisons to turn over to the clerk of court \$4,043.02 held in the inmate trust account of defendant Wayner D. Black, Reg. No. 06899-090. The government says that such funds are to be used as payment toward the criminal monetary penalties imposed on defendant when he was sentenced for armed bank robbery and ordered to pay a \$100.00 special assessment and make restitution of \$15,208.97.

Defendant has been making payments for restitution since his sentencing and has reduced his financial obligation to \$9,860.94. However, he objects to turning over the

money in his inmate trust account because, he says, he signed a contract in February 2021, agreeing to pay 50% of his UNICOR earnings to the government as restitution for a federal victim. Dkt. #185-1. He has asked the court to order the United States to show cause why it should be allowed to deduct any other payments from his inmate trust account.

Defendant's request will be denied. It is well established that the Bureau of Prisons has the authority to require prisoners to make restitution payments and to determine the size and frequency of the payments. 18 U.S.C. §§ 3664(m)(1)(A). United States v. Sawyer, 521 F.3d 792, 794 (7th Cir. 2008) (Bureau of Prisons does not need judicial permission to take money from prisoner's account for restitution.) See also 28 C.F.R. § 545.11 and Program Statement P5380.08.

If defendant believes that his February 2121 agreement bars the Bureau of Prisons from taking any additional money from his prison earnings, he must take that matter up with the Bureau of Prisons. This court lacks the authority to second guess the bureau's decision on this issue. Defendant may file an appeal with the Bureau of Prisons, 28 C.F.R. § 545.11(d), if he believes that the bureau has made a legal error or is applying the regulation arbitrarily, but he cannot obtain relief on this issue in this court.

ORDER

IT IS ORDERED that defendant Wayner Black's motion to order the United States

to show cause why it should be allowed to deduct restitution payments of \$4,043.02 from his inmate trust account is DENIED. The Bureau of Prisons is directed to turn over \$4,043.02 to the Clerk of Court for the Western District of Wisconsin, who shall apply this amount to restitution.

Entered this 28th day of June, 2021.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge